BEFORE THE BOARD OF REGISTERED NURSING DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA

In the Matter of the Accusation Against:

JOSEPHINE GEMANEL MADRIDEJO-ADVENTO a.k.a. JOSEPHINE A. ASPRER 2140 North Brighton Street Burbank, CA 91504

Registered Nurse License No. 479479

Respondent

Case No. 2013-64

OAH No. 2012080958

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on April 26, 2013.

IT IS SO ORDERED March 28, 2013.

Raymond Mallel, President Board of Registered Nursing

Department of Consumer Affairs

State of California

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1	KAMALA D. HARRIS	
. 2	Attorney General of California GLORIA A. BARRIOS	
. 3	Supervising Deputy Attorney General LINDA L. SUN	
. 4	Deputy Attorney General	
	State Bar No. 207108 300 So. Spring Street, Suite 1702	
5	Los Angeles, CA 90013 Telephone: (213) 897-6375	
6 -	Facsimile: (213) 897-2804	
. 7	Attorneys for Complainant	
8		RE THE STERED NURSING
	DEPARTMENT OF O	CONSUMER AFFAIRS
9	STATE OF C	CALIFORNIA
10	In the Matter of the Accusation Against:	Case No. 2013-64
. 11		
. 12	JOSEPHINE GEMANEL MADRIDEJO- ADVENTO, AKA	OAH No. 2012080958
13	JOSEPHINE A. ASPRER 2140 North Brighton Street	STIPULATED SETTLEMENT AND DISCIPLINARY ORDER FOR PUBLIC
14	Burbank, CA 91504	REPROVAL
15	Registered Nurse License No. 479479	[Bus. & Prof. Code § 495]
16	Respondent.	
17		
18	IT IS HEDERY STIDIII ATED AND AGI	REED by and between the parties to the above-
.19	entitled proceedings that the following matters a	
20	PAR	TIES
21	1. LOUISE R. BAILEY, M.ED., RN (Complainant) is the Executive Officer of the
22	Board of Registered Nursing (Board). She broug	ght this action solely in her official capacity and
23	is represented in this matter by Kamala D. Harris	s, Attorney General of the State of California, by
24 ⁻	Linda L. Sun, Deputy Attorney General.	
25	2. Josephine Gemanel Madridejo-Adve	nto, aka Josephine A. Asprer (Respondent) is
26	represented in this proceeding by attorney Samuel Spital, whose address is: 8880 Rio San Diego	
27	Drive, Ste. 800, San Diego, CA 92108-1642.	
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STIPULATED SETTLEMENT (2013-64)

3. On or about June 30, 1992, the Board issued Registered Nurse License No. 479479 to Respondent. The Registered Nurse License was in full force and effect at all times relevant to the charges brought in Accusation No. 2013-64 and will expire on September 30, 2013, unless renewed.

JURISDICTION

4. Accusation No. 2013-64 was filed before the Board and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on July 19, 2012. Respondent timely filed her Notice of Defense contesting the Accusation. A copy of Accusation No. 2013-64 is attached as Exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

- 5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 2013-64. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order for Public Reproval.
- 6. Respondent is fully aware of her legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel at her own expense; the right to confront and cross-examine the witnesses against her; the right to present evidence and to testify on her own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.
- 7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

8. Respondent admits the truth of each and every charge and allegation in Accusation No. 2013-64.

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9. Respondent agrees that her Registered Nurse License is subject to discipline and she agrees to be bound by the Board's terms as set forth in the Disciplinary Order below.

CIRCUMSTANCES IN MITIGATION

10. Respondent has never been the subject of any prior disciplinary action before the Board since her licensure in 1992. She has accepted responsibility at an early stage in the proceedings. Respondent has submitted a lengthy mitigation brief, multiple supporting declarations and exhibits. Further, Respondent has been examined by a forensic expert.

RESERVATION.

11. The admissions made by Respondent herein are only for the purposes of this proceeding, or any other proceedings in which the Board of Registered Nursing or other professional licensing agency is involved, and shall not be admissible in any other criminal or civil proceeding.

CONTINGENCY

- 12. This stipulation shall be subject to approval by the Board of Registered Nursing. Respondent understands and agrees that counsel for Complainant and the staff of the Board of Registered Nursing may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent or her counsel. By signing the stipulation, Respondent understands and agrees that she may not withdraw her agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order for Public Reproval shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.
- 13. The parties understand and agree that facsimile copies of this Stipulated Settlement and Disciplinary Order for Public Reproval, including facsimile signatures thereto, shall have the same force and effect as the originals.
- 14. This Stipulated Settlement and Disciplinary Order for Public Reproval is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment

of their agreement. It supersedes any and all prior or contemporaneous agreements, understandings, discussions, negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary Order for Public Reproval may not be altered, amended, modified, supplemented, or otherwise changed except by a writing executed by an authorized representative of each of the parties.

15. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Registered Nurse License No. 479479 issued to Respondent shall, by way of letter from the Board's Executive Officer, be publicly reproved. The letter shall be in the same form as the letter attached as Exhibit B to this stipulation.

IT IS FURTHER ORDERED that Respondent shall pay \$2,515 to the Board for its costs associated with the investigation and enforcement of this matter. Respondent shall be permitted to pay these costs in a payment plan approved by the Board. If Respondent fails to pay the Board costs as ordered, Respondent shall not be allowed to renew her Registered Nurse License until Respondent pays costs in full.

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order for Public Reproval and have fully discussed it with my attorney, Samuel Spital. I understand the stipulation and the effect it will have on my Registered Nurse License. I enter into this Stipulated Settlement and Disciplinary Order for Public Reproval voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Registered Nursing.

DATED:

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EPHINE GEMANEL MADRIDEJO-ADVENTO. AKA JOSEPHINE A. ASPRER

Respondent

I have read and fully discussed with Respondent Josephine Gemanel Madridejo-Advento, aka Josephine A. Asprer the terms and conditions and other matters contained in the above 2 Stipulated Settlement and Disciplinary Order for Public Reproval. I approve its form and content. 3 Der. 11, 2012 DATED: 5 Samuel Spital Attorney for Respondent б ENDORSEMENT 7 The foregoing Stipulated Settlement and Disciplinary Order for Public Reproval is hereby 8 respectfully submitted for consideration by the Board of Registered Nursing of the Department of Consumer Affairs. 10 ļΙ Dated: 12 13 12-12-12 14 15 16 A L. SUN 17 18 19 20 LA2012506501 51197141.doc 22 23 24 25 26 27 Ż8

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Respectfully submitted, Kamala D. Harris Attorney General of California GLORIA A. BARRIOS Supervising Deputy Attorney General Deputy Attorney General Attorneys for Complainant

STIPULATED SETTLEMENT (2013-64)

Exhibit A

Accusation No. 2013-64

1	KAMALA D. HARRIS Attorney General of California	
2	GLORIA A. BARRIOS Supervising Deputy Attorney General	
3	LINDA L. SUN	
4	Deputy Attorney General State Bar No. 207108	
. 5	300 So. Spring Street, Suite 1702 Los Angeles, CA 90013	
6	Telephone: (213) 897-6375 Facsimile: (213) 897-2804	
. 7	Attorneys for Complainant	
8	BEFORE THE	
9	BOARD OF REGISTERED NURSING DEPARTMENT OF CONSUMER AFFAIRS	
10	STATE OF CALIFORNIA	
11	In the Matter of the Accusation Against: Case No. 2013-64	
12	JOSEPHINE GEMANEL MADRIDEJO-ADVENTO	
13	aka JOSEPHINE A. ASPRER 2140 North Brighton Street Burbank, CA 91504 A C C U S A T I O N	
14		
15	Registered Nurse License No. 479479	
16	Respondent.	
17	Complainant alleges:	
18	<u>PARTIES</u>	
19	1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her	
20	official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department	
21	of Consumer Affairs (Board).	
22	2. On or about June 30, 1992, the Board issued Registered Nurse License No. 479479 to	
23	Josephine Gemanel Madridejo-Advento, aka Josephine A. Asprer (Respondent). The Registered	
24	Nurse License was in full force and effect at all times relevant to the charges brought herein and	
25	will expire on September 30, 2013, unless renewed.	
26	<u>JURISDICTION</u>	
27	3. This Accusation is brought before the Board under the authority of the following	
28	laws. All section references are to the Business and Professions Code unless otherwise indicated.	
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STATUTORY PROVISIONS

- 4. Section 2764 provides that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811, subdivision (b), the Board may renew an expired license at any time within eight (8) years after the expiration.
- 5. Section 490 provides that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.
- 6. Section 2750 provides that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.
 - 7. Section 2761 states, in pertinent part:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

"(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof. . . ."

REGULATORY PROVISION

8. California Code of Regulations, title 16, section 1444 states, in pertinent part:

"A conviction or act shall be considered to be substantially related to the qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the present or potential unfitness of a registered nurse to practice in a manner consistent with the public health, safety, or welfare. Such convictions or acts shall include but not be limited to the following:

"(c) Theft, dishonesty, fraud, or deceit. . . ."

COST RECOVERY

9. Section 125.3 provides that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

CAUSE FOR DISCIPLINE

(Conviction of a Substantially Related Crime)

- 10. Respondent is subject to disciplinary action under sections 490 and 2761, subdivision (f), in conjunction with California Code of Regulations, title 16, section 1444, in that on or about October 6, 2011, Respondent was convicted of a crime substantially related to the qualifications, functions or duties of a registered nurse which to a substantial degree evidences her present or potential unfitness to practice in a manner consistent with the public health, safety, or welfare, as follows:
- a. On or about October 6, 2011, after pleading nolo contendere to a lesser misdemeanor count, Respondent was convicted of one misdemeanor count of violating Penal Code section 487(a) [grand theft of personal property] in the criminal proceeding entitled *The People of the State of California v. Josephine Madrideso Advento* (Super. Ct. Los Angeles County, 2011, No. GA083929). The Court sentenced Respondent to one (1) day jail, placed her on three (3) years probation, ordered her to complete 30 days of P.A.A.W.S. (Probation Adult Alternative Work Service), and ordered her to stay away from all Macy's stores.
- b. The circumstances underlying the conviction are that on or about July 18, 2011, Respondent stole 13 dresses valued at \$1,117.94 from Macy's department store.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board issue a decision:

- 1. Revoking or suspending Registered Nurse License No. 479479, issued to Josephine Gemanel Madridejo-Advento, aka Josephine A. Asprer;
- 2. Ordering Josephine Gemanel Madridejo-Advento to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to section 125.3; and

1	3. Taking such other and further action as deemed necessary and proper.
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4	DATED: Guly 19 2012 Stare Bern
5	DATED: fully 19 20/2 fill 10 10 10 10 10 10 10 10 10 10 10 10 10
6	Board of Registered Nursing
7	Department of Consumer Affairs State of California Complainant
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Accusation

Exhibit B

Letter of Public Reproval in Case No. 2013-64



STATE AND CONSUMER SERVICES AGENCY . GOVERNOR EDMUND G.

Board of Registered Nursing P O Box 944210, Sacramento, CA 94244-2100 P (916) 322-3350 I www.rn.ca.gov Louise R. Bailey, M.ED., RN, Executive Officer



March 28, 2013

Josephine Gemanel Madridejo-Advento, aka Josephine A. Asprer 2140 North Brighton Street Burbank, CA 91504

LETTER OF PUBLIC REPROVAL

In the Matter of the Accusation Against:

Josephine Gemanel Madridejo-Advento, aka Josephine A. Asprer

Registered Nurse License No. 479479

Dear Ms. Madridejo-Advento:

On July 19, 2012, the Board of Registered Nursing, Department of Consumer Affairs, State of California, filed an Accusation against your Registered Nurse License. The Accusation alleges that you that you were convicted of a crime substantially related to the qualifications, functions, and duties of a registered nurse in violation of Business and Professions Code sections 490 and 2761, subdivision (f), in conjunction with California Code of Regulations, title 16, section 1444. The basis for the allegation is that on or about October 6, 2011, you were convicted of your plea of nolo contendere to one misdemeanor count of violating Penal Code section 487(a) in that you stole merchandise from a department store valued at \$1117.94.

Taking into consideration that you have been licensed in California for over 20 years without prior discipline, that you have been in compliance with your criminal probation, that you have been examined by Dr. Martin Williams, a psychologist who opined that the conduct was an isolated incident, that you have submitted numerous letters from physicians and other health care professionals in support of your character, your nursing competence and your commitment to helping others, and that there are other mitigating circumstances in this case that support the determination that you are safe to practice as a registered nurse, the Board has decided that the charges warrant a public reproval. You shall pay \$2,515 to the Board for its costs associated with the investigation and enforcement of this matter. You are permitted to pay these costs in a payment plan approved by the Board. However, if you fail to pay the Board costs as ordered, you will not be allowed to renew your Registered Nurse License until these costs are paid in full.

Accordingly, in resolution of this matter under the authority provided under Business and Professions Code section 495, the Board of Registered Nursing, Department of Consumer Affairs issues this letter of public reproval.

Sincerely,

orine f. Bailey M.Ed. RN LOUISE R. BAILEY, W.ED., R.N.

Executive Officer

Board of Registered Nursing

Department of Consumer Affairs

State of California